

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GENE MILLER	:	CIVIL ACTION
	:	
v.	:	
	:	
RICHARD SOUTHER, et al.	:	NO. 12-1063

ORDER

AND NOW, this 12th day of October, 2012, upon consideration of petitioner Gene Miller's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (docket entry # 1), and after careful and independent review of the Report and Recommendation of United States Magistrate Judge L. Felipe Restrepo (docket entry # 5), to which Miller filed objections (docket entry # 6), and the Court finding that:

(a) Judge Restrepo's well-reasoned Report and Recommendation ("R&R") examined all issues of fact and law relevant to the disposition of Miller's § 2254 petition and concluded that his petition should be dismissed as time barred;

(b) Though Miller filed what we will construe as objections to the R&R, his filing does not take issue with Judge Restrepo's time-barred analysis;

(c) Miller's "objections" also append a nearly fifty-page document entitled "Amendment/Supplement to Habeas Corpus Petition" that, in addition to containing a Philadelphia Court of

Common Pleas criminal action caption, fails to address the substance of Judge Restrepo's R&R;

(d) Moreover, it does not appear that any issues raised in this submission were presented to Judge Restrepo nor has Miller offered any reason why the interest of justice warrants consideration of these issues now, see Loc. R. Civ. P. 72.1 IV(c) ("All issues and evidence shall be presented to the magistrate judges, and unless the interest of justice requires it, new issues and evidence shall not be raised after the filing of the Magistrate Judge's Report and Recommendation if they could have been presented to the magistrate judge."); and

(e) Since Miller fails to register any dispute with any reasoning in Judge Restrepo's R&R, he has not pointed us to anything that warrants our review, see Loc. R. Civ. P. 72.1 IV(a) ("[An objecting] party shall file with the Clerk of Court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections." (emphasis added));

It is hereby ORDERED that:

1. The Report and Recommendation (docket entry # 5) is APPROVED and ADOPTED;

2. Miller's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (docket entry # 1) is DENIED;

3. Miller having failed to make a substantial showing of the denial of a constitutional right, we DECLINE to issue a certificate of appealability; and

4. The Clerk of Court shall CLOSE this case statistically.

BY THE COURT:

/s/ Stewart Dalzell, J.